

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

NEW YORK STATE ELECTRIC & GAS
CORPORATION,

Plaintiff,

Civil Action No.
3:03-CV-0438 (DEP)

v.

FIRSTENERGY CORPORATION,

Defendant.

FIRSTENERGY CORPORATION,

Third-Party Plaintiff,

v.

I.D. BOOTH, INC.,

Third-Party Defendant.

AMENDED FINAL JUDGMENT

In accordance with this court's decision and order dated July 11, 2011, and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, it is hereby ORDERED, ADJUDGED and DECREED as follows:

- 1) New York State Electric and Gas Corporation ("NYSEG") is entitled to recover from FirstEnergy Corporation ("FirstEnergy")

\$26,495,076, constituting the sum of FirstEnergy's equitable share of allowable past costs incurred through December 31, 2009 with respect to the sixteen sites at issue.

2) FirstEnergy also shall pay \$3,220,149 in prejudgment interest on response costs incurred through December 31, 2009 for which FirstEnergy is liable to NYSEG, calculated at the applicable Superfund Interest Rate for each federal fiscal year, and accrued on the later of April 8, 2003 (the date of NYSEG's Complaint) or the date of the expenditure.

3) In total, FirstEnergy shall pay NYSEG \$29,715,225, inclusive of prejudgment interest, in past costs incurred through December 31, 2009.

4) In addition, FirstEnergy is liable to pay NYSEG for MGP-related response costs incurred after December 31, 2009 for work performed pursuant to the Consent Decree entered into by NYSEG with the New York State Department of Environmental Conservation, to the extent those costs are consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Part 300), at the sixteen sites at issue, at the percentages outlined below:

<u>Site</u>	<u>Percentage</u>
Corning	8.7%
Cortland-Homer	44.8%
Dansville	5.7%
Elmira	17.4%
Geneva	29.8%
Goshen	33.0%
Granville	46.5%
Ithaca (CS)	30.4%
Ithaca (FS)	100%
Mechanicville	36.9%
Newark	0%
Norwich	0%
Oneonta	42.1%
Owego	0%
Penn Yan	0%
Plattsburgh	28%

5) FirstEnergy also is liable to pay NYSEG prejudgment interest on MGP-related response costs incurred by NYSEG between January 1, 2010 and the date of this judgment, calculated at the applicable Superfund interest rate for each federal fiscal year, and accrued from the date of the expenditure.

6) ID Booth, Inc., ("ID Booth") shall pay \$160,089 to FirstEnergy, constituting the sum of I.D. Booth's equitable share of past response costs

incurred through December 31, 2009 with respect to the Cortland-Homer Site.

7) I.D. Booth shall also pay \$19,033 in prejudgment interest on past costs incurred through December 31, 2009, calculated through September 2, 2011 at the applicable Superfund Interest rate for each fiscal year and accruing on the later date of the filing of this action or the date of expenditure.

8) FirstEnergy is entitled to a declaratory judgment that I.D. Booth is liable to pay FirstEnergy the amount of 6.72% of all response costs incurred by NYSEG at the Cortland-Homer Site after December 31, 2009, with prejudgment interest for those expenses incurred after that date but prior to the entry of judgment.



David E. Peebles
U.S. Magistrate Judge

Dated: September 7, 2011
Syracuse, NY